

REMARKS

This application has been reviewed in light of the Office Action dated October 22, 2004. In view of the foregoing amendments and the following remarks, favorable reconsideration and withdrawal of the rejections set forth in the Office Action are respectfully requested.

Claims 1, 3-15, 17-29, 31-39, 42 and 44-52 are pending. Claims 15, 17-28, 42 and 44-52 have been withdrawn from consideration as directed to a non-elected invention. Claims 1 and 29 have been amended. Support for the claim changes can be found in the original disclosure, and therefore no new matter has been added. Claims 1, 15, 29 and 42 are in independent form.

Initially, Applicants note with appreciation that Claims 7 and 35 have been indicated as allowable if rewritten so as not to depend from a rejected claim. Those claims have not been so rewritten because, for at least the reasons set forth below, their respective base claims are believed to be allowable.

In that regard, the Examiner states that the reasons for indicating allowable subject matter were indicated in the previous Office Action. However, Applicants note that those reasons were in fact indicated in the Office Action dated October 24, 2002.

The Office Action set forth a restriction requirement between two groups of claims, stating that Group I (Claims 1, 3-14, 29 and 31-39) is drawn to "a preliminary ejecting operation in an inkjet apparatus that ejects a different amount of ink in accordance to the amount of time in which printing is not executed," classified in class 347, subclass 23, and Group II (Claims 15, 17-28, 42, 44-52) is drawn to "a preliminary ejecting operation in an inkjet apparatus

in which ink ejected having an optical density obtained from a pigment concentration varied depending on the amount of time in which printing is not executed,” classified in class 347, subclass 23. In response to the restriction requirement, Applicants provisionally elected Group I (Claims 1, 3-14, 29 and 31-39), with traverse, via a telephonic communication with the Examiner.

In that regard, Applicants respectfully submit that the two groups of claims are closely related and that a proper search of any of the claims of one group would likely include a search of the claims of the other group. Thus, it is submitted that all of the claims can be searched simultaneously and that a duplicative search with possibly inconsistent results may occur if the restriction requirement is maintained. Therefore, in the interest of economy, both for the Office and Applicant, withdrawal of the restriction requirement is respectfully solicited.

Nevertheless, as required by the Office Action, Applicants hereby affirm the election of Group I.

Claims 1 and 29 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,942,043 (*Suemune*). Claims 1, 3-6, 8, 10, 11, 13, 14, 29, 31-34, 36, 38 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,659,342 (*Lund et al.*) in view of *Suemune*. Claims 9, 12 and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lund et al.* in view of *Suemune* and further in view of U.S. Patent No. 6,299,277 (*Fujii*). In response to this rejection, Applicants respectfully submit the following remarks.

Applicants submit that independent Claims 1 and 29 are allowable for at least the following reasons.

Independent Claim 1 recites, *inter alia*, that an ejection is performed through an ejecting portion only one or two times, selectively, in one preliminary ejecting operation.

Independent Claim 29 recites a feature similar or identical to this feature recited in Claim 1.

The invention as set forth in independent Claim 1 was achieved based on the knowledge that the amount of ink ejected may decrease, and the concentration of ejected ink may vary, even when ink ejection is executed within a relatively short time following a previous ejection of ink. According to the claimed invention, a preliminary ejection operation is provided that includes only one or two times of ejecting ink, to prevent the amount of ejected ink from being decreased and prevent the concentration of ejected ink from varying, while not wasting ink.

Lund et al. relates to an on-page ink jet printhead spitting system. Applicants submit that, as the Office Action (page 4) is understood to concede, nothing in *Lund et al.* would teach or suggest the above-noted feature of Claim 1.

Suemune relates to a method of cleaning a print head using a plurality of cleaning operations. Fig. 5 and col. 4, lines 21-29 of *Suemune* describe a number of suction and ejection operations, i.e., a number of cleaning operations including ejection, preformed in a cleaning method. As thus described, these operations may be performed one, two or three times each, depending on the length of time since the recording apparatus was last turned off, as measured by a voltage reading from a timer circuit. However, Applicants submit that nothing in *Suemune* would teach or suggest that an ejection is performed through an ejecting portion only one or two times, selectively, in one preliminary ejecting operation, as recited in Claim 1.

Since neither *Lund et al.* nor *Suemune*, whether taken singly or in combination (even assuming, for the sake of argument, that such combination were permissible), contains all

of the elements of independent Claim 1, that claim is believed allowable over the cited art. Since independent Claim 29 recites a feature similar or identical to the above-discussed feature recited in Claim 1, Claim 29 is also believed allowable for at least the same reasons as pertain to Claim 1.

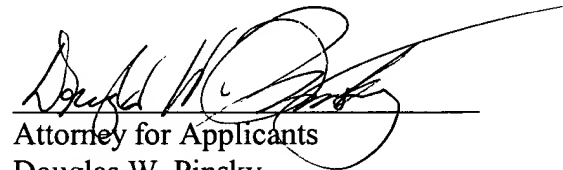
A review of the other art of record, including *Fujii*, has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as references against independent Claims 1 and 29. Those claims are therefore believed patentable over the art of record.

The other claims presented for examination are each dependent from independent Claim 1 or 29 and are therefore believed patentable for at least the same reasons. Since each of these dependent claims is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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